



Reprinted
February 27, 2008

ENGROSSED SENATE BILL No. 200

DIGEST OF SB 200 (Updated February 26, 2008 8:11 pm - DI 103)

Citations Affected: IC 4-21.5; IC 5-24; IC 13-11; IC 13-13; IC 13-14; IC 13-18; IC 13-19; IC 13-20; IC 13-23; IC 13-30; IC 16-18; IC 16-41; IC 36-8; noncode.

Synopsis: Department of environmental management matters. Provides that a person must be qualified as a mediator under Indiana Supreme Court Rules to serve as a mediator in an administrative proceeding unless the parties and the administrative law judge agree to a mediator who is not qualified as such. Eliminates the requirement for the department of environmental management (IDEM) to include a laboratory division. Eliminates the requirement for certain water and wastewater operators to display certificates. Provides that a wastewater management vehicle must have an identification number issued by IDEM instead of a license. Provides that IDEM may issue a wastewater management permit that incorporates issuance of a wastewater management vehicle identification number and approval of a land
(Continued next page)

Effective: Upon passage; July 1, 2008; January 1, 2009.

Gard, Riegsecker
(HOUSE SPONSORS — DVORAK, WOLKINS)

January 8, 2008, read first time and referred to Committee on Energy and Environmental Affairs.

January 16, 2008, amended, reported favorably — Do Pass.

January 24, 2008, read second time, amended, ordered engrossed.

January 25, 2008, engrossed.

January 29, 2008, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Environmental Affairs.

February 21, 2008, reported — Do Pass.

February 26, 2008, read second time, amended, ordered engrossed.

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application site. Eliminates the requirement for an applicant for certain waste permits to include the applicant's Social Security number in the application disclosure statement. Allows IDEM to require additional information in the application. Establishes good character disclosure requirements for confined feeding operations and CAFOs. Allows IDEM to review and act on disclosed good character information. Prohibits a person from starting construction of a confined feeding operation or CAFO without obtaining both: (1) the prior approval of IDEM; and (2) any approval required by a county, city, or town in which the confined feeding operation or CAFO is or would be constructed. Provides that before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under the laws concerning local planning and zoning may be granted, the applicant must submit a bond: (1) to IDEM; and (2) in an amount that is equal to the projected annual gross income of the landfill. Requires IDEM to hold the bond for three years after the date the landfill is closed. With respect to the mercury switch removal program: (1) states the purposes of the program; (2) requires IDEM to pay recyclers for removed anti-lock braking system G-force sensors and other components containing more than 10 milligrams of mercury; and (3) provides that the mercury switch removal requirement does not apply if the removal would require dismantling of the vehicle. Transfers administration of the lead-based paint activities program from IDEM to the state department of health and amends the definition of elevated blood lead level for purposes of the program. Deletes the deadline of January 1, 2009, for adoption of lead-based paint activities rules by the state department of health (SDOH). Provides that lead-based paint activities rules adopted before January 1, 2009, by the air pollution control board are considered rules of the SDOH, and requires the SDOH to adopt rules to replace the rules of the control board. Allows IDEM to use money in the underground petroleum storage tank excess liability trust fund for the inspection of underground storage tanks, and limits the combined amount of payments from the fund in a year for tank inspection and administration of claims against the fund to 10% of the fund income in the immediately preceding year. Establishes standards for electronic submission of information to IDEM.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 200

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-21.5-3.5-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) Except as**
3 **provided in subsection (b),** a person who applies to be a mediator
4 under this chapter must ~~have:~~

5 ~~(1) completed at least forty (40) hours of mediation training in~~
6 ~~courses certified as appropriate for mediation training by the~~
7 ~~Indiana commission for continuing legal education;~~

8 ~~(2) received a minimum of five (5) hours of mediation training~~
9 ~~during the two (2) year period before application; and~~

10 ~~(3) received a minimum of five (5) hours of mediation training~~
11 ~~during the two (2) year period before reapplication if~~
12 ~~reapplication is required by the agency involved.~~

13 **be qualified as a mediator under Rule 2.5 of the Indiana Supreme**
14 **Court Rules for Alternative Dispute Resolution.**

15 **(b) Subject to approval of the administrative law judge, the**
16 **parties may agree on any person to serve as a mediator.**

17 SECTION 2. IC 5-24-1-4 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. IC 13-14-13 and IC 13-30-10-1 apply to the use of an electronic submission for any of the following:**

- (1) Satisfaction of a state or federal requirement for reporting to the department of environmental management.**
- (2) Satisfaction of the requirements for an application to the department of environmental management.**
- (3) Submission to the department of environmental management of any other substitute for a paper document.**

SECTION 3. IC 13-11-2-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.7 "ABS sensor", for purposes of IC 13-20-17.7, refers to an anti-lock braking system G-force sensor.**

SECTION 4. IC 13-11-2-8, AS AMENDED BY P.L.154-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. (a) "Applicant", for purposes of IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.**

~~(a)~~ **(b)** "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) receives, for commercial purposes, solid or hazardous waste generated offsite for storage, treatment, processing, or disposal; and**
- (2) applies for the issuance, transfer, or major modification of a permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.**

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

~~(b)~~ **(c)** "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

~~(c)~~ **(d)** For purposes of subsection ~~(a)~~; **(b)**, "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) generates solid or hazardous waste; and**
- (2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:**
 - (A) owned by the individual, corporation, partnership, or business association; and**

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(B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association.

SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.137-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 71. "Environmental management laws" refers to the following:

- (1) IC 13-12-2 and IC 13-12-3.
- (2) IC 13-13.
- (3) IC 13-14.
- (4) IC 13-15.
- (5) IC 13-16.
- (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- (7) **IC 13-18-10**, IC 13-18-12, IC 13-18-13-31, and IC 13-18-15 through IC 13-18-20.
- (8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.
- (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17-7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.
- (10) IC 13-22.
- (11) IC 13-23.
- (12) IC 13-24.
- (13) IC 13-25-1 through IC 13-25-5.
- (14) IC 13-27-8.
- (15) IC 13-30, except IC 13-30-1.

SECTION 6. IC 13-11-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

~~(f) "Fund", for purposes of IC 13-17-14, refers to the lead trust fund.~~

~~(g)~~ (f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

~~(h)~~ (g) "Fund", for purposes of IC 13-18-13, refers to the wastewater

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1 revolving loan fund established by IC 13-18-13-2.

2 (i) (h) "Fund", for purposes of IC 13-18-21, refers to the drinking
3 water revolving loan fund established by IC 13-18-21-2. The term does
4 not include the supplemental fund established by IC 13-18-21-22.

5 (j) (i) "Fund", for purposes of IC 13-19-5, refers to the
6 environmental remediation revolving loan fund established by
7 IC 13-19-5-2.

8 (k) (j) "Fund", for purposes of IC 13-20-4, refers to the municipal
9 waste transportation fund.

10 (l) (k) "Fund", for purposes of IC 13-20-13, refers to the waste tire
11 management fund.

12 (m) (l) "Fund", for purposes of IC 13-20-22, refers to the state solid
13 waste management fund.

14 (n) (m) "Fund", for purposes of IC 13-21-7, refers to the waste
15 management district bond fund.

16 (o) (n) "Fund", for purposes of IC 13-21-13-2, refers to a district
17 solid waste management fund.

18 (p) (o) "Fund", for purposes of IC 13-23-6, refers to the underground
19 petroleum storage tank trust fund.

20 (q) (p) "Fund", for purposes of IC 13-23-7, refers to the
21 underground petroleum storage tank excess liability trust fund.

22 (r) (q) "Fund", for purposes of IC 13-25-4, refers to the hazardous
23 substances response trust fund.

24 (s) (r) "Fund", for purposes of IC 13-25-5, refers to the voluntary
25 remediation fund.

26 (t) (s) "Fund", for purposes of IC 13-28-2, refers to the voluntary
27 compliance fund.

28 SECTION 7. IC 13-11-2-129.9 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JANUARY 1, 2009]: **Sec. 129.9. "Modification", for**
31 **purposes of IC 13-18-10, refers to an expansion of a confined**
32 **feeding operation or concentrated animal feeding operation that**
33 **results in either of the following:**

34 (1) **An increase in the confined animal capacity.**

35 (2) **An increase in the liquid manure storage capacity.**

36 SECTION 8. IC 13-11-2-191 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 191. (a)
38 **"Responsible party", for purposes of IC 13-18-10, means any of the**
39 **following:**

40 (1) **An applicant referred to in IC 13-18-10-1.5(a).**

41 (2) **A person referred to in IC 13-18-10-1.5(b).**

42 (3) **An officer, a corporation director, or a senior management**

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official of any of the following that is an applicant referred to in IC 13-18-10-1.5(a) or a person referred to in IC 13-18-10-1.5(b):

(A) A corporation.

(B) A partnership.

(C) A limited liability company.

(D) A business association.

~~(a)~~ (b) "Responsible party", for purposes of IC 13-19-4, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an applicant; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.

~~(b)~~ (c) "Responsible party", for purposes of IC 13-20-6, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

~~(c)~~ (d) "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

~~(d)~~ (e) "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of; the hazardous materials emergency.

SECTION 9. IC 13-13-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The department must include the following divisions:

(1) An air pollution control division.

(2) A water pollution control division.

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(3) A solid waste management division.

~~(4) A laboratory division.~~

~~(5) (4)~~ An administrative services division.

~~(6) (5)~~ A division of pollution prevention.

SECTION 10. IC 13-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The:

(1) position of commissioner;

(2) highest position in each of the offices, except for the offices identified in:

(A) IC 13-13-3-1(1); and

(B) IC 13-13-3-1(3); and

(3) highest position in each of the divisions; ~~except for the division identified in IC 13-13-3-2(4);~~

are subject to IC 4-15-1.8.

SECTION 11. IC 13-14-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 13. Electronic Applications and Reports

Sec. 1. This chapter applies to the use of an electronic submission for any of the following:

(1) Satisfaction of a state or federal requirement for reporting to the department.

(2) Satisfaction of the requirements for an application to the department.

(3) Submission to the department of any other substitute for a paper document.

Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

(1) Standards established under IC 5-24 and corresponding rules.

(2) Requirements of cross-media electronic reporting under 40 CFR 3.

(3) Procedures established by the department to accept electronic information.

Sec. 3. The department may not require a person to make electronic submissions under this chapter.

Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

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(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are:

- (1) acceptable to the state board of accounts under IC 5-24; and
- (2) consistent with 40 CFR 3.

Sec. 5. Information submitted in an acceptable electronic document under a procedure adopted under section 4 of this chapter must have a signature uniquely assigned. The receiving system for the document must be able to attribute the signature to a specific individual. If an electronic document is submitted under an assigned signature, the signatory may not repudiate responsibility for the signature.

Sec. 6. A person is subject to applicable state or federal civil, criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

- (1) is in place of a paper document under this chapter; and
- (2) fails to comply with the following:
 - (A) Standards established under IC 5-24 and supporting rules.
 - (B) Requirements of cross-media electronic reporting under 40 CFR 3.
 - (C) Procedures established by the department to accept electronic information.

Sec. 7. A person submitting information using an assigned signature is liable under IC 13-30-10 for the information provided and subject to penalties under that chapter, regardless of whether the information submitted is in electronic form or other form.

SECTION 12. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) A person may not start construction of a confined feeding operation or CAFO without obtaining both:

- (1) the prior approval of the department; and
 - (2) any approval required by a county, city, or town in which the:
 - (A) confined feeding operation; or
 - (B) CAFO;
- is or would be constructed or operated.

(b) Subject to section 1.5 of this chapter, obtaining an NPDES permit for a CAFO meets the requirements of subsection ~~(a)~~ (a)(1) and 327 IAC 16 to obtain an approval.

SECTION 13. IC 13-18-10-1.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.5. (a) An applicant must include in the application the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f).**

(b) A person that obtains an NPDES permit for a CAFO as provided in section 1(b) of this chapter must include the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f) in:

(1) the application for an individual NPDES permit for the CAFO under 327 IAC 5; or

(2) the notice of intent filed under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(c) A person referred to in subsection (a) or (b) must submit to the department a disclosure statement for each responsible party that includes the following:

(1) The name and business address of the responsible party.

(2) A description of the responsible party's experience in managing the type of facility that will be managed under the permit.

(3) A description of all pending administrative, civil, or criminal enforcement actions filed against the responsible party alleging either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing, repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

(4) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions resolved against the responsible party within the five (5) years that immediately precede the date of the application involving either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing, repeated violations of state or federal

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environmental laws or regulations that could lead to environmental harm.

(5) Identification of all state and federal environmental permits previously denied or revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under subsection (b).

(f) A person referred to in subsection (a) or (b) must submit to the department evidence of financial assurance, maintained in accordance with and in amounts set in rules adopted under section 4 of this chapter. The financial assurance must be in the form of:

(1) a bond for performance, executed by a corporate surety licensed to do business in Indiana;

(2) a negotiable certificate of deposit; or

(3) a negotiable letter of credit;

payable to the department and conditional upon faithful performance of the requirements of this chapter and compliance with other environmental laws.

SECTION 14. IC 13-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Application for approval of the construction **or modification** of a confined feeding operation **or a CAFO** must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.

(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires, including the following:

(A) General features of topography.

(B) Soil types.

(C) Drainage course.

(D) Identification of nearest streams, ditches, and lakes.

(E) Location of field tiles.

(F) Location of land application areas.

(G) Location of manure treatment facilities.

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1 (H) Farmstead plan, including the location of water wells on
2 the site.

3 (5) **Except as provided in subsection (e)**, a fee of one hundred
4 dollars (\$100). The department shall refund the fee if the
5 department does not make a determination in accordance with the
6 time period established under section 2.1 of this chapter.

7 **(6) The disclosure statement or statements and the proof of**
8 **financial assurance required under section 1.5 of this chapter.**

9 (b) An applicant who applies for approval to construct a confined
10 feeding operation **or a CAFO** on land that is undeveloped or for which
11 a valid existing approval has not been issued, **or to modify a confined**
12 **feeding operation or a CAFO**, shall make a reasonable effort to
13 provide notice:

14 (1) to:

15 (A) each person who owns land that adjoins the land on which
16 the confined feeding operation **or the CAFO** is to be located
17 **or modified; or**

18 (B) if a person who owns land that adjoins the land on which
19 the confined feeding operation **or the CAFO** is to be located
20 **or modified** does not occupy the land, all occupants of the
21 land; and

22 (2) to the county executive of the county in which the confined
23 feeding operation **or the CAFO** is to be located **or modified;**
24 not more than ten (10) working days after submitting an application.
25 The notice must be sent by mail, be in writing, include the date on
26 which the application was submitted to the department, and include a
27 brief description of the subject of the application. The applicant shall
28 pay the cost of complying with this subsection. The applicant shall
29 submit an affidavit to the department that certifies that the applicant
30 has complied with this subsection.

31 **(c) A person must comply with subsection (d) if:**

32 **(1) the person is not required to file an application as**
33 **provided in section 1(b) of this chapter for construction of a**
34 **CAFO:**

35 **(A) on land that is undeveloped; or**

36 **(B) for which:**

37 **(i) a valid existing approval has not been issued; or**

38 **(ii) an NPDES permit has not been obtained;**

39 **or for modification of a CAFO; and**

40 **(2) the person files:**

41 **(A) an application under 327 IAC 5 for an individual**
42 **NPDES permit for the construction or modification of a**

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1 CAFO; or

2 (B) a notice of intent under 327 IAC 15 for general NPDES
3 permit coverage for construction or modification of a
4 CAFO.

5 (d) A person referred to in subsection (c) shall make a
6 reasonable effort to provide notice:

7 (1) to:

8 (A) each person who owns land that adjoins the land on
9 which the CAFO is to be located or modified; or

10 (B) if a person who owns land that adjoins the land on
11 which the CAFO is to be located or modified does not
12 occupy the land, all occupants of the land; and

13 (2) to the county executive of the county in which the CAFO
14 is to be located or modified;

15 not more than ten (10) working days after submitting a
16 application or filing a notice of intent. The notice must be sent by
17 mail, be in writing, include the date on which the application or
18 notice of intent was submitted to or filed with the department, and
19 include a brief description of the subject of the application or
20 notice of intent. The person shall pay the cost of complying with
21 this subsection. The person shall submit an affidavit to the
22 department that certifies that the person has complied with this
23 subsection.

24 (e) The fee for a modification of a confined feeding operation or
25 CAFO is the fee determined by rule by the department as a
26 percentage of the fee established under subsection (a)(5) for the
27 type of operation determined to account for the magnitude of the
28 modification as compared to the magnitude of the original
29 construction.

30 ~~(e)~~ (f) Plans and specifications for manure treatment or control
31 facilities for a confined feeding operation **or a CAFO** must secure the
32 approval of the department. The department shall approve the
33 construction and operation of the manure management system of the
34 confined feeding operation **or the CAFO** if the commissioner
35 determines that the applicant meets the requirements of:

36 (1) this chapter;

37 (2) rules adopted under this chapter;

38 (3) the water pollution control laws;

39 (4) rules adopted under the water pollution control laws; and

40 (5) policies and statements adopted under IC 13-14-1-11.5
41 relative to confined feeding operations **or CAFOs**.

42 SECTION 15. IC 13-18-10-2.1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

(1) continue to review the application;

(2) approve or deny the application as soon as practicable; and

(3) refund the applicant's application fee not later than twenty-five

(25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if **either of the following applies:**

(1) The department:

(A) determines within thirty (30) days after the department receives the application that the application is incomplete; and

(B) has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

~~(1)~~ (i) do not contain adequate information for the department to process the application; or

~~(2)~~ (ii) are not consistent with applicable law.

(2) **The department:**

(A) **determines that the applicant is subject to any pending action as described in section 1.5(c)(3) of this chapter; and**

(B) **is diligently pursuing the pending action under IC 13-30.**

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation **or the CAFO** that concerns manure handling and application to assure compliance with:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

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(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations or CAFOs.

(e) Subject to subsection (f), the commissioner may deny an application upon making either of the following findings:

(1) A responsible party intentionally misrepresented or concealed any material fact in:

(A) a disclosure statement; or

(B) other information;

required by section 1.5 of this chapter.

(2) An enforcement action was resolved against a responsible party as described in section 1.5(c)(4) of this chapter.

(f) The commissioner may not deny an application under this section based solely on pending actions disclosed under section 1.5(c)(3) of this chapter.

(g) Before making a determination to approve or deny an application, the commissioner shall consider the following factors:

(1) The nature and details of the acts attributed to the applicant or responsible party.

(2) The degree of culpability of the responsible party.

(3) The responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in actions referred to in section 1.5(c)(4) of this chapter.

(4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.5(c)(4) of this chapter.

(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.5(c)(4) of this chapter.

(6) Whether the best interests of the public will be served by denial of the permit.

(7) Any demonstration of good citizenship by the person or responsible party.

(h) Except as provided in subsection (i), in taking action under subsection (e), the commissioner shall make separately stated findings of fact to support the action taken. The findings of fact must:

(1) include a statement of ultimate fact; and

(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(i) If the commissioner denies an application under subsection

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(e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (g) influenced the denial.

~~(e)~~ (j) The department may amend an approval of an application or revoke an approval of an application:

(1) for failure to comply with:

(A) this chapter;

(B) rules adopted under this chapter;

(C) the water pollution control laws; or

(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 16. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation or the CAFO:

(1) was constructed; and

(2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction of an approved confined feeding operation or a CAFO must:

(1) begin not later than two (2) years; and

(2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation or the CAFO or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation or the CAFO have been completed, whichever is later.

SECTION 17. IC 13-18-10-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations and CAFOs that may be administered by:

(1) the department;

(2) a state college or university; or

(3) a contractor.

SECTION 18. IC 13-18-10-4, AS AMENDED BY P.L.2-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Subject to subsection (c), the board may adopt rules under IC 4-22-2 and IC 13-14-9 and the

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department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations **and CAFOs** and may include uniform standards for:

(1) construction and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

(c) The board shall:

(1) adopt rules under IC 4-22-2 and IC 13-14-9 to set the amount of financial assurance required of a person under section 1.5(f) of this chapter; and

(2) set graduated amounts under subdivision (1) based on the greater potential liability associated with larger operations.

SECTION 19. IC 13-18-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~(a)~~ The commissioner shall issue certificates attesting to the competency of operators. A certificate must indicate the classification of works, plant, or system that the operator is qualified to supervise.

~~(b) Each operator shall prominently display the operator's certificate in the office of the operator.~~

SECTION 20. IC 13-18-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person may not transport, treat, store, or dispose of wastewater in violation of this chapter.

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(b) A person may not engage in:

(1) the cleaning of sewage disposal systems; or

(2) the transportation, treatment, storage, or disposal of wastewater;

without a wastewater management permit unless the person is exempted under section 7 of this chapter.

(c) A person may not operate a vehicle for the transportation of wastewater without a wastewater management vehicle ~~license~~ **identification number issued** under this chapter unless the person is exempted under section 4(a)(2) of this chapter.

(d) A person may not dispose of wastewater by land application without first obtaining approval of the land application site under this chapter.

(e) The department may issue a wastewater management permit that incorporates issuance of a wastewater management vehicle identification number and approval of a land application site.

~~(e)~~ **(f)** The department may issue new and renewal permits, ~~licenses,~~ **identification numbers,** and approvals under this chapter for a period the department determines appropriate. However, the period may not exceed three (3) years.

SECTION 21. IC 13-18-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board shall, in accordance with IC 13-14-8, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of wastewater management permits under section 3 of this chapter.

(B) Cleaning of sewage disposal systems.

(C) Transportation, storage, and treatment of wastewater, and disposal of wastewater, including land application.

(2) ~~License~~ **Issuance of identification numbers for all** vehicles used in wastewater management services. However, the board may exempt by rule vehicles licensed on September 1, 1983, under the industrial waste haulers rule 320 IAC 5-10 as the rule existed on September 1, 1983.

(3) Procedures and standards for approval of sites for land application of wastewater.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules adopted under this section.

SECTION 22. IC 13-18-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the

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issuance of:

- (1) wastewater management permits;
- (2) wastewater management vehicle ~~licenses~~; **identification numbers**; and
- (3) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars (\$100) per year.

(c) A vehicle ~~license~~ **identification number** or land application approval fee may not exceed thirty dollars (\$30) per year per vehicle or site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 23. IC 13-18-12-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.5. In addition to any other authority in this title, the commissioner or a designated staff member may, under IC 4-21.5, revoke or modify a permit, ~~license~~; a **vehicle identification number**, or approval issued under this chapter for any of the following reasons:

- (1) Violation of a requirement of this chapter, rules adopted under this chapter, a permit, a ~~license~~; **an identification number**, or an approval.
- (2) Failure to disclose all relevant facts.
- (3) A misrepresentation made in obtaining the permit, ~~license~~; **identification number**, or approval.
- (4) Failing to meet the qualifications for a permit, a ~~license~~; **an identification number**, or an approval or failing to comply with the requirements of the water pollution control laws or rules adopted by the board.
- (5) Changes in circumstances relating to the permit, ~~license~~; **identification number**, or approval that require either a temporary or permanent reduction in the discharge of contaminants.

SECTION 24. IC 13-18-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. This chapter does not require a person to obtain a permit or vehicle ~~license~~ **identification number** under this chapter if the person is:

- (1) engaged in:
 - (A) servicing or maintaining publicly owned wastewater treatment facilities; or

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(B) transportation of wastewater from a publicly owned wastewater treatment facility; as long as the wastewater at that facility has been fully treated and is stabilized;

(2) transporting wastewater from the point of its removal to another location on the same site or tract owned by the same person, although disposal of the wastewater must be done in accordance with this chapter; or

(3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of wastewater must be done in compliance with this chapter.

SECTION 25. IC 13-19-4-2, AS AMENDED BY P.L.154-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Before an application for the issuance, transfer, or major modification of a permit for a solid waste processing facility, solid waste disposal facility, or hazardous waste facility may be granted, the applicant and each person who is a responsible party with respect to the applicant must submit to the department:

(1) a disclosure statement that:

(A) meets the requirements set forth in section 3(a) of this chapter; and

(B) is executed under section 3(b) of this chapter; or

(2) all of the following information:

(A) The information concerning legal proceedings that:

(i) is required under Section 13 or 15(d) of the federal Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and

(ii) the applicant or responsible party has reported under form 10-K.

(B) A description of all judgments that:

(i) have been entered against the applicant or responsible party in a proceeding described in section 3(a)(3) of this chapter; and

(ii) have imposed upon the applicant or responsible party a fine or penalty described in section 3(a)(3)(A) of this chapter.

(C) A description of all judgments of conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

(D) Any other related information to support the

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**application requested by the department concerning either
of the following:**

(i) The applicant.

(ii) The responsible party.

SECTION 26. IC 13-19-4-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) In a disclosure
statement required by section 2 of this chapter, the applicant or
responsible party shall set forth the following information:

(1) The name **and** business address **and** Social Security number
of the applicant or responsible party.

(2) A description of the applicant's or responsible party's
experience in managing the type of waste that will be managed
under the permit.

(3) A description of all civil and administrative complaints
against the applicant or responsible party for the violation of any
state or federal environmental protection law that:

(A) have resulted in a fine or penalty of more than ten
thousand dollars (\$10,000) within five (5) years before the
date of the submission of the application; or

(B) allege an act or omission that:

(i) constitutes a material violation of the state or federal
environmental protection law; and

(ii) presented a substantial endangerment to the public
health or the environment.

(4) A description of all pending criminal complaints alleging the
violation of any state or federal environmental protection law that
have been filed against the applicant or responsible party within
five (5) years before the date of submission of the application.

(5) A description of all judgments of criminal conviction entered
against the applicant or responsible party within five (5) years
before the date of submission of the application for the violation
of any state or federal environmental protection law.

(6) A description of all judgments of criminal conviction of a
felony constituting a crime of moral turpitude under the laws of
any state or the United States that are entered against the
applicant or responsible party within five (5) years before the date
of submission of the application.

(7) The location of all facilities at which the applicant or
responsible party manages the type of waste that would be
managed under the permit to which the application refers.

(b) A disclosure statement submitted under section 2(1) of this
chapter:

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(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

SECTION 27. IC 13-20-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. (a) Before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under IC 36-7-4 may be granted, the applicant must submit a bond:**

(1) to the department; and

(2) in an amount that is equal to the projected annual gross income of the landfill.

(b) The department shall hold a bond submitted to the department under subsection (a) for three (3) years after the date the landfill is closed.

SECTION 28. IC 13-20-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The commissioner may deny an application for an original permit for the construction or operation of a landfill if:

(1) the commissioner finds that:

(1) (A) the applicant does not have a positive net worth of at least two hundred fifty thousand dollars (\$250,000); or

(2) (B) there is at least one (1) unsatisfied and nonappealable judgment requiring the payment of money by the applicant; or

(2) the applicant fails to submit a bond to the department as required under section 4.5 of this chapter.

SECTION 29. IC 13-20-17.7-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5 (a) The goal of the program established under this chapter is to remove at least eighty percent (80%) of all mercury switches from end of life vehicles processed in Indiana by motor vehicle recyclers.**

(b) Implementing the program established under this chapter addresses the mercury national emission standards for hazardous air pollutants for facilities using recycled steel.

SECTION 30. IC 13-20-17.7-5, AS ADDED BY P.L.170-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Beginning thirty (30) days after the earliest date the commissioner approves a plan under section 4 of this chapter, **except as provided in subsection (f), a motor vehicle recycler is required to remove all mercury switches from each end of life vehicle the motor vehicle recycler receives upon receipt of the vehicle.**

(b) After A mercury switch that is removed from a vehicle the

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~~mercury switch~~ shall be collected, stored, transported, and ~~otherwise handled~~ **recycled or properly disposed of** in accordance with the plan approved under section 4 of this chapter. **Either of the following that is removed from a vehicle shall be collected, stored, transported, and recycled or properly disposed of in the same manner as a mercury switch:**

(1) An ABS sensor.

(2) Any other component containing more than ten (10) milligrams of mercury.

(c) Notwithstanding subsection (a), a motor vehicle recycler may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the motor vehicle recycler assumes responsibility for removing the mercury switches.

(d) A motor vehicle recycler or any other person that removes mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury** in accordance with this section shall maintain records that document the number of:

(1) end of life vehicles the person processed for recycling;

(2) end of life vehicles the person processed that contained mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury;** and

(3) mercury switches, **ABS sensors, and any other components containing more than ten (10) milligrams of mercury** the person collected.

A person that maintains records under this section shall retain the records for at least three (3) years.

(e) A person may not represent that mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury** have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches, **sensors, or other components** from the vehicle.

(f) ~~A motor vehicle recycler or other person that receives an~~ **Subsection (a) does not apply to a mercury switch in an end of life vehicle that is:**

(1) intentionally flattened, crushed, or baled; end of life vehicle may not be considered to be in violation of this section if a mercury switch is found in the vehicle after the person acquires the vehicle; or

(2) damaged to the extent that the mercury switch cannot be removed without dismantling the vehicle.

SECTION 31. IC 13-20-17.7-6, AS ADDED BY P.L.170-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2008]: Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is entitled to payment from the department for each **mercury switch of the following** the person removes from an end of life vehicle under ~~section 5(a)~~ **section 5** of this chapter:

(1) **A mercury switch.**

(2) **An ABS sensor.**

(3) **Any other component containing more than ten (10) milligrams of mercury.**

(b) The commissioner shall establish:

(1) the amount of the payment under subsection (a), which must be:

(A) at least one dollar (\$1); and

(B) not more than five dollars (\$5);

per mercury switch, **ABS sensor, or other component containing more than ten (10) milligrams of mercury;** and
(2) a procedure for claims for payment under this section.

(c) The commissioner shall determine:

(1) whether to use money in the state solid waste management fund; and

(2) if the commissioner determines under subdivision (1) to use money in that fund, the amount of money from the fund to be used;

to make payments under this section.

(d) The department is required to make payments under this section only to the extent of the amount of money determined by the commissioner under subsection (c)(2).

SECTION 32. IC 13-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) **Subject to subsection (b)**, the underground petroleum storage tank excess liability trust fund is established for the following purposes:

(1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities incurred by owners and operators of underground petroleum storage tanks under IC 13-23-13-8 for corrective action.

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3.

(4) Providing a source of money to pay for the expenses of the department incurred in paying and administering claims against the trust fund. Money may be provided under this subdivision only for those job activities and expenses that consist exclusively

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of administering the excess liability trust fund.

(5) Providing a source of money to pay for the expenses of the department incurred in inspecting underground storage tanks.

(b) The combined amount of payments described in subsection (a)(4) and (a)(5) from the underground petroleum storage tank excess liability trust fund in a state fiscal year may not exceed ten percent (10%) of the fund income in the immediately preceding state fiscal year.

SECTION 33. IC 13-30-10-1, AS ADDED BY P.L.137-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person who knowingly or intentionally makes a material misstatement in connection with an application for a permit submitted to the department commits a Class D felony.

(b) A person who knowingly or intentionally destroys, alters, conceals, or falsely certifies a record that:

(1) is required to be maintained under the terms of a permit issued by the department; and

(2) may be used to determine the status of compliance; commits a Class D felony.

(c) A person who knowingly or intentionally renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department commits a Class D felony.

(d) A person who knowingly or intentionally falsifies testing or monitoring data required by a permit issued by the department commits a Class D felony.

(e) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

SECTION 34. IC 16-18-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 0.5. (a) "Abatement", for purposes of IC 16-41-39.5, means any measure or set of measures designed to permanently eliminate lead-based paint hazards. The term includes the following:**

(1) The removal of lead-based paint and lead-contaminated dust.

(2) The permanent enclosure or encapsulation of lead-based paint.

(3) The replacement of lead-painted surfaces or fixtures.

(4) The removal or covering of lead-contaminated soil.

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(5) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with subdivisions (1) through (4).

(6) A project for which there is a written contract or other documentation, providing that a person will be conducting activities in or to a residential dwelling or child-occupied facility that:

(A) will permanently eliminate lead-based paint hazards; or

(B) are designed to permanently eliminate lead-based paint hazards as described under subdivisions (1) through (5).

(7) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons certified under 40 CFR 745.226 or IC 13-17-14, unless the project is described under subsection (b) or (c).

(8) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons who, through the person's company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless those projects are described under subsection (b) or (c).

(9) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to state or local abatement orders.

(b) The term does not include renovation, remodeling, landscaping, or other activities when those activities are not designed to permanently eliminate lead-based paint hazards but are designed to repair, restore, or remodel a structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(c) The term does not include interim controls, operations, or maintenance activities or other measures designed to temporarily reduce lead-based paint hazards.

SECTION 35. IC 16-18-2-54.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 54.7. "Child-occupied facility", for purposes of lead-based paint activities and IC 16-41-39.5, means a building or a portion of a building that:

(1) was constructed before 1978;

(2) does not qualify as target housing (as defined in section 346.3 of this chapter); and

(3) is visited regularly by a child who is not more than six (6)

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years of age and any of the following conditions exist for the building or part of the building:

(A) The child visits at least two (2) days a week (Sunday through Saturday) and each of the visits lasts at least three (3) hours.

(B) The child visits at least six (6) hours each week.

(C) The child's combined annual visits during a calendar year total at least sixty (60) hours.

The term includes day care centers, preschools, and kindergarten classrooms.

SECTION 36. IC 16-18-2-66.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 66.7. "Component", for purposes of IC 16-41-39.5, has the meaning set forth in 24 CFR 35.110, as in effect July 1, 2002.**

SECTION 37. IC 16-18-2-106.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 106.6. "Elevated blood lead level", for purposes of IC 16-41-39.5, means a blood level of at least ten (10) micrograms of lead per deciliter of whole blood.**

SECTION 38. IC 16-18-2-114.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 114.5. "Encapsulant", for purposes of IC 16-41-39.5, means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.**

SECTION 39. IC 16-18-2-114.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 114.6. "Encapsulation", for purposes of IC 16-41-39.5, means the application of an encapsulant.**

SECTION 40. IC 16-18-2-198.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 198.5. "Lead-based paint", for purposes of IC 16-41-39.5, means paint or another surface coating that contains lead in an amount equal to or more than one (1) milligram per square centimeter, or in the amount of more than one-half percent (0.5%) by weight.**

SECTION 41. IC 16-18-2-198.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 198.6. (a) "Lead-based paint**

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activities", for purposes of IC 16-41-39.5, means the inspection, risk assessment, and abatement of lead-based paint in target housing and child-occupied facilities.

(b) The term includes project design and supervision.

SECTION 42. IC 16-18-2-346.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 346.3. (a) "Target housing", for purposes of lead-based paint activities and IC 16-41-39.5, means housing constructed before January 1, 1978.**

(b) The term does not include the following:

(1) Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child of not more than six (6) years of age.

(2) A building without a bedroom.

SECTION 43. IC 16-41-39.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 39.5. Lead-Based Paint Activities

Sec. 1. (a) This chapter does not apply to the following:

(1) A person making an inspection under the authority of IC 22-8-1.1.

(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:

(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or

(B) a child who:

(i) is not more than six (6) years of age or an age specified in rules adopted under section 6 of this chapter; and

(ii) resides in the building and has been identified as having an elevated blood lead level.

(b) This chapter may not be construed as requiring the abatement of lead-based paint hazards in a child-occupied facility or target housing.

Sec. 2. The lead-based paint activities program is established. The purpose of the program is to ensure that a person conducting lead-based paint activities in target housing, child-occupied facilities, and any other type of building specified in rules adopted under section 6 of this chapter does so in a manner that safeguards the environment and protects the health of the building's

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1 occupants, especially children who are not more than six (6) years
2 of age.

3 **Sec. 3. (a) A person who engages in lead-based paint activities**
4 **must obtain a license under this chapter and under rules adopted**
5 **under section 6 of this chapter. Lead-based paint activities licenses**
6 **issued under IC 13-17-14 (before its repeal) or under this chapter**
7 **expire as follows:**

8 (1) On June 30, 2004, if issued before July 1, 2002.

9 (2) Three (3) years after the date of issuance, if issued after
10 June 30, 2002.

11 (b) A person may receive a lead-based paint activities license
12 under this chapter for the following disciplines:

13 (1) Inspector.

14 (2) Risk assessor.

15 (3) Project designer.

16 (4) Supervisor.

17 (5) Abatement worker.

18 (6) Contractor.

19 (c) A person may receive a clearance examiner license under
20 this chapter. A person who engages in the clearance of
21 nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in
22 effect July 1, 2002, must obtain a clearance examiner license under
23 this chapter and under rules adopted under section 6 of this
24 chapter. A clearance examiner license expires three (3) years after
25 the date of issuance.

26 (d) A person who enters into a contract requiring the person to
27 execute for compensation lead-based paint activities must hold a
28 lead-based paint activities contractor's license.

29 (e) A person must:

30 (1) take required training and pass an examination provided
31 in a lead-based paint training course or clearance examiner
32 training course, as appropriate, approved by the state
33 department;

34 (2) for a license in the discipline of:

35 (A) inspector;

36 (B) risk assessor;

37 (C) project designer; or

38 (D) supervisor;

39 pass an examination provided by the state department or a
40 third party as required by rules adopted under section 6 of
41 this chapter; and

42 (3) meet any requirements established by rules adopted under

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section 6 of this chapter;
before the person may receive a lead-based paint activities license
or clearance examiner license.

(f) The state department may issue a license for a position listed
under subsection (b) or (c) if the applicant submits proof to the
state department that the applicant satisfies the training,
examination, and other requirements for the license under this
chapter.

(g) A:

(1) lead-based paint activities license; or

(2) clearance examiner license;

issued under IC 13-17-14 (before its repeal) or this chapter may be
renewed for a period of three (3) years. To renew a license, a
person who holds a license for a position listed in subsection (b) or
(c) must complete refresher training and pass any reexamination
required by rules adopted under section 6 of this chapter.

(h) A lead-based paint activities contractor licensed under this
chapter may not allow an agent or employee of the contractor to:

(1) exercise control over a lead-based paint activities project;

(2) come into contact with lead-based paint; or

(3) engage in lead-based paint activities;

unless the agent or employee is licensed under this chapter.

(i) A person engaging in lead-based paint activities shall comply
with the work practice standards established in rules adopted
under section 6 of this chapter and the applicable work practice
standards established in section 13 of this chapter for performing
the appropriate lead-based paint activities.

Sec. 4. (a) A lead-based paint activities training program must
meet requirements specified in rules adopted under section 6 of this
chapter before providing initial or refresher training to a person
seeking a license listed in section 3(b) of this chapter.

(b) The state department may approve a lead-based paint
activities training course offered by a person who satisfies the
requirements of subsection (a).

(c) A lead-based paint activities training course must be
conducted by an instructor approved by the state department as
provided in the rules adopted under section 6 of this chapter.

Sec. 5. (a) A clearance examiner training program must meet
requirements specified in rules adopted under section 6 of this
chapter before providing initial or refresher training to a person
seeking a license under section 3(c) of this chapter.

(b) The state department may approve a clearance examiner

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1 training course offered as part of a program that satisfies the
2 requirements of subsection (a).

3 (c) A clearance examiner training course must be conducted by
4 an instructor approved by the state department as provided in the
5 rules adopted under section 6 of this chapter.

6 Sec. 6. (a) Rules adopted by the air pollution control board
7 before January 1, 2009, under IC 13-17-14-5 (repealed) are
8 considered rules of the state department after December 31, 2008.
9 The state department shall adopt rules under IC 4-22-2 to replace
10 the rules of the air pollution control board and to implement this
11 chapter. The rules adopted by the state department must contain
12 at least the elements required to receive program authorization
13 under 40 CFR 745, Subpart L, as in effect July 1, 2002, and must
14 do the following:

15 (1) Establish minimum requirements for the issuance of a
16 license for:

17 (A) lead-based paint activities inspectors, risk assessors,
18 project designers, supervisors, abatement workers, and
19 contractors; and

20 (B) clearance examiners.

21 (2) Establish minimum requirements for approval of the
22 providers of:

23 (A) lead-based paint activities training courses; and

24 (B) clearance examiner training courses.

25 (3) Establish minimum qualifications for:

26 (A) lead-based paint activities training course instructors;
27 and

28 (B) clearance examiner training course instructors.

29 (4) Extend the applicability of the licensing requirements to
30 other facilities as determined necessary by the board.

31 (5) Establish work practice standards.

32 (6) Establish a state department or third-party examination
33 process.

34 (7) Identify activities, if any, that are exempted from licensing
35 requirements.

36 (8) Establish a fee of not more than one hundred fifty dollars
37 (\$150) per person, per license, for the period the license is in
38 effect for a person seeking a license under section 3 of this
39 chapter. However, the following may not be required to pay
40 a fee established under this subdivision:

41 (A) A state.

42 (B) A municipal corporation (as defined in IC 36-1-2-10).

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- 1 (C) A unit (as defined in IC 36-1-2-23).
 2 (9) Establish a fee of not more than one thousand dollars
 3 (\$1,000) per course, per year, for a lead-based paint training
 4 program seeking approval of a lead-based paint training
 5 course under section 4 of this chapter. However, the following
 6 may not be required to pay a fee established under this
 7 subdivision:
 8 (A) A state.
 9 (B) A municipal corporation (as defined in IC 36-1-2-10).
 10 (C) A unit (as defined in IC 36-1-2-23).
 11 (D) An organization exempt from income taxation under
 12 26 U.S.C. 501(a).
 13 (10) Establish a fee of not more than one thousand dollars
 14 (\$1,000) per course, per year, for a clearance examiner
 15 training program seeking approval of a clearance examiner
 16 training course under section 5 of this chapter. However, the
 17 following may not be required to pay a fee established under
 18 this subdivision:
 19 (A) A state.
 20 (B) A municipal corporation (as defined in IC 36-1-2-10).
 21 (C) A unit (as defined in IC 36-1-2-23).
 22 (D) An organization exempt from income taxation under
 23 26 U.S.C. 501(a).
 24 (b) The amount of the fees under subsection (a) may not be more
 25 than is necessary to recover the cost of administering this chapter.
 26 (c) The proceeds of the fees under subsection (a) must be
 27 deposited in the lead trust fund established by section 7 of this
 28 chapter.
 29 (d) The minimum requirements established under subsection
 30 (a)(1) must be sufficient to allow the clearance examiner to
 31 perform clearance examinations without the approval of a certified
 32 risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv),
 33 as in effect July 1, 2002.
 34 Sec. 7. (a) The lead trust fund established by IC 13-17-14-6
 35 (repealed) is reestablished to provide a source of money for the
 36 purposes set forth in subsection (f).
 37 (b) The expenses of administering the fund shall be paid from
 38 the money in the fund.
 39 (c) The treasurer of state shall invest the money in the fund not
 40 currently needed to meet the obligations of the fund in the same
 41 manner as other public money may be invested. Interest that
 42 accrues from these investments shall be deposited in the fund.

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(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) License fees established under section 6 of this chapter.

(2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(3) Penalties imposed under sections 14 and 15 of this chapter for violations of this chapter and rules adopted under this chapter concerning lead-based paint activities.

(f) The state department may use money in the fund to do the following:

(1) Pay the expenses of administering this chapter.

(2) Cover other costs related to implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

Sec. 8. (a) A lead-based paint activities contractor licensed under this chapter shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of the following:

(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.

(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring

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of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis (if applicable) and the name of each federally approved laboratory that conducted the analysis.

(10) The amount of material containing lead-based paint that was removed from the site of the project.

(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(11) must be included in the records concerning the lead-based paint activities project that are compiled under this section.

(c) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(d) A lead-based paint activities contractor shall make records kept under this section available to the state department upon request.

Sec. 9. A political subdivision or a state agency may not accept a bid for a lead-based paint activities project from a person who does not hold a lead-based paint activities license.

Sec. 10. Without limiting the authority to inspect under IC 16-41-5-1, the state department may do the following:

(1) Inspect the site of a lead-based paint activities project:

(A) during the project; or

(B) after the project is completed.

(2) Conduct an investigation of a lead-based paint activities project upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

(3) Conduct an investigation of the provider of a lead-based paint activities training course upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

Sec. 11. (a) If the state department finds that a lead-based paint activities project is not being performed in accordance with applicable laws or rules, the state department may enjoin further work on the lead-based paint activities project without prior notice

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or hearing by delivering a notice to:

- (1) the lead-based paint activities contractor engaged in the lead-based paint activities project; or
- (2) an agent or representative of the lead-based paint activities contractor.

(b) A notice issued under this section must:

- (1) specify the violations of laws or rules that are occurring on the lead-based paint activities project; and
- (2) prohibit further work on the lead-based paint activities project until the violations specified under subdivision (1) cease and the notice is rescinded by the state department.

(c) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the state department shall issue a determination regarding rescission of the notice.

(d) A lead-based paint activities contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the state department's action under IC 4-21.5.

Sec. 12. (a) The state department may under IC 4-21.5 reprimand, suspend, or revoke the license of a clearance examiner or a lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or contractor for any of the following reasons:

- (1) Violating any requirements of this chapter or rules adopted under section 6 of this chapter.
- (2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.
- (3) Failing to meet the qualifications for a license or failing to comply with the requirements of applicable laws or rules.
- (4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The state department may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The state department may under IC 4-21.5 revoke the approval of a clearance examiner or a lead-based paint activities training course for any of the following reasons:

- (1) Violating any requirement of this chapter.
- (2) Falsifying information on an application for approval.

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(3) Misrepresenting the extent of a training course's approval.

(4) Failing to submit required information or notifications in a timely manner.

(5) Failing to maintain required records.

(6) Falsifying approval records, instructor qualifications, or other approval information.

Sec. 13. (a) This section applies to:

(1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and

(2) lead-based paint activities.

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in rules adopted under section 6 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section who performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

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(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200, as in effect July 1, 2002.

(g) A person conducting activities under subsection (a) on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

Sec. 14. (a) A person who violates:

(1) any provision of this chapter; or

(2) a rule or standard adopted by the state department under section 6 of this chapter;

is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation.

(b) The state department may:

(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

Sec. 15. A person who obstructs, delays, resists, prevents, or interferes with:

(1) the state department; or

(2) the state department's personnel or designated agent;

in the performance of an inspection or investigation performed under IC 16-41-5-1 commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

SECTION 44. IC 36-8-12-2, AS AMENDED BY P.L.43-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. As used in this chapter:

"Employee" means a person in the service of another person under

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a written or implied contract of hire or apprenticeship.

"Employer" means:

- (1) a political subdivision;
- (2) an individual or the legal representative of a deceased individual;
- (3) a firm;
- (4) an association;
- (5) a limited liability company;
- (6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or
- (7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

- (1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and
- (2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars (\$20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in ~~IC 13-11-2-191(d)~~.

IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

- (1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in

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1 IC 16-31-5-1(6).

2 SECTION 45. IC 36-8-12-13, AS AMENDED BY P.L.107-2007,
3 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2009]: Sec. 13. (a) A volunteer fire department may
5 impose a charge on the owner of property, the owner of a vehicle, or a
6 responsible party (as defined in ~~IC 13-11-2-191(d)~~ **IC 13-11-2-191(e)**)
7 that is involved in a hazardous material or fuel spill or chemical or
8 hazardous material related fire (as defined in IC 13-11-2-96(b)):

9 (1) that is responded to by the volunteer fire department; and

10 (2) that members of that volunteer fire department assisted in
11 extinguishing, containing, or cleaning up.

12 (b) The volunteer fire department shall bill the owner or responsible
13 party of the vehicle for the total dollar value of the assistance that was
14 provided, with that value determined by a method that the state fire
15 marshal shall establish under IC 36-8-12-16. A copy of the fire incident
16 report to the state fire marshal must accompany the bill. This billing
17 must take place within thirty (30) days after the assistance was
18 provided. The owner or responsible party shall remit payment directly
19 to the governmental unit providing the service. Any money that is
20 collected under this section may be:

21 (1) deposited in the township firefighting fund established in
22 IC 36-8-13-4;

23 (2) used to pay principal and interest on a loan made by the
24 department of homeland security established by IC 10-19-2-1 or
25 a division of the department for the purchase of new or used
26 firefighting and other emergency equipment or apparatus; or

27 (3) used for the purchase of equipment, buildings, and property
28 for firefighting, fire protection, and other emergency services.

29 (c) The volunteer fire department may maintain a civil action to
30 recover an unpaid charge that is imposed under subsection (a).

31 SECTION 46. IC 36-8-12.2-5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. As used in this
33 chapter, "responsible party" has the meaning set forth in
34 ~~IC 13-11-2-191(d)~~ **IC 13-11-2-191(e)**.

35 SECTION 47. THE FOLLOWING ARE REPEALED [EFFECTIVE
36 JANUARY 1, 2009]: IC 13-11-2-0.5; IC 13-11-2-25.5;
37 IC 13-11-2-36.5; IC 13-11-2-61.5; IC 13-11-2-66.5; IC 13-11-2-66.7;
38 IC 13-11-2-118.3; IC 13-11-2-118.5; IC 13-11-2-229.5; IC 13-17-14.

39 SECTION 48. [EFFECTIVE JANUARY 1, 2009] **(a) The treasurer**
40 **of state shall retain in the lead trust fund reestablished by**
41 **IC 16-41-39.5-7, as added by this act, the balance in that fund on**
42 **December 31, 2008.**

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(b) This SECTION expires July 1, 2009.

SECTION 49. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies notwithstanding the effective date of:

(1) IC 13-18-10-1.5, as added by this act; and

(2) the amendments under this act to IC 13-11-2-8, IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1, and IC 13-18-10-2.2.

(b) The definitions in IC 13-11-2 apply throughout this SECTION.

(c) Subject to subsection (d), the Indiana Code sections referred to in subsection (a), as added or amended by this act, apply to the following confined feeding operations and CAFOs in the same manner those sections would have applied if those sections had been in effect on the date the application for the confined feeding operation or CAFO was submitted to the department or the notice of intent for general NPDES permit coverage for the CAFO was filed with the department:

(1) A confined feeding operation or CAFO for which a person is required to submit an application to the department for approval under IC 13-18-10-1(a), as amended by this act.

(2) A CAFO for which a person is required to submit an application to the department for approval of an individual NPDES permit for the CAFO under 327 IAC 5.

(3) A CAFO for which a person is required to file a notice of intent under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(d) Subsection (c) applies only if:

(1) the date of submission of a notice of intent referred to in subsection (c) is on or after the effective date of this SECTION; or

(2) an application referred to in subsection (c) was not approved by the department before the effective date of this SECTION.

SECTION 50. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 200, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 10, line 1, after "containing" insert **"more than ten (10) milligrams of"**.

Page 10, line 7, after "containing" insert **"more than ten (10) milligrams of"**.

Page 10, line 13, after "containing" insert **"more than ten (10) milligrams of"**.

Page 10, line 15, after "containing" insert **"more than ten (10) milligrams of"**.

Page 10, line 19, after "containing" insert **"more than ten (10) milligrams of"**.

Page 10, line 40, after "containing" insert **"more than ten (10) milligrams of"**.

Page 11, line 5, after "containing" insert **"more than ten (10) milligrams of"**.

Page 14, line 4, delete "an excessive" and insert **"a blood level of at least ten (10) micrograms of lead per deciliter of whole blood."**.

Page 14, delete lines 5 through 9.

Page 17, line 37, after "(a)" insert **"Rules adopted by the air pollution control board before January 1, 2009, under IC 13-17-14-5 (repealed) are considered rules of the state department after December 31, 2008."**.

Page 17, line 38, delete "before January 1, 2009,".

Page 17, line 38, after "to" insert **"replace the rules of the air pollution control board and to"**.

Page 17, line 39, after "rules" insert **"adopted by the state department"**.

Page 23, line 6, delete "5" and insert **"6"**.

and when so amended that said bill do pass.

(Reference is to SB 200 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 10, Nays 0.

ES 200—LS 6631/DI 52+



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SENATE MOTION

Madam President: I move that Senate Bill 200 be amended to read as follows:

Page 11, line 21, delete "The" and insert "**(a) Subject to subsection (b),** the".

Page 11, between lines 39 and 40, begin a new paragraph and insert:

"(b) The combined amount of payments described in subsection (a)(4) and (a)(5) from the underground petroleum storage tank excess liability trust fund in a state fiscal year may not exceed ten percent (10%) of the fund income in the immediately preceding state fiscal year."

(Reference is to SB 200 as printed January 17, 2008.)

GARD

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as second author of Engrossed Senate Bill 200.

GARD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 200, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 200 be amended to read as follows:

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 4. IC 13-11-2-8, AS AMENDED BY P.L.154-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. **(a) "Applicant", for purposes of IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.**

~~(a)~~ **(b)** "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) receives, for commercial purposes, solid or hazardous waste generated offsite for storage, treatment, processing, or disposal; and
- (2) applies for the issuance, transfer, or major modification of a permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

~~(b)~~ **(c)** "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

~~(c)~~ **(d)** For purposes of subsection ~~(a)~~, **(b)**, "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) generates solid or hazardous waste; and
- (2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:
 - (A) owned by the individual, corporation, partnership, or business association; and
 - (B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association.

SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.137-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 71. "Environmental management laws" refers to the following:

- (1) IC 13-12-2 and IC 13-12-3.

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- (2) IC 13-13.
- (3) IC 13-14.
- (4) IC 13-15.
- (5) IC 13-16.
- (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- (7) **IC 13-18-10**, IC 13-18-12, IC 13-18-13-31, and IC 13-18-15 through IC 13-18-20.
- (8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.
- (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.
- (10) IC 13-22.
- (11) IC 13-23.
- (12) IC 13-24.
- (13) IC 13-25-1 through IC 13-25-5.
- (14) IC 13-27-8.
- (15) IC 13-30, except IC 13-30-1."

Page 3, between lines 14 and 15, begin a new paragraph and insert:
 "SECTION 7. IC 13-11-2-129.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 129.9. "Modification", for purposes of IC 13-18-10, refers to an expansion of a confined feeding operation or concentrated animal feeding operation that results in either of the following:**

- (1) An increase in the confined animal capacity.**
- (2) An increase in the liquid manure storage capacity.**

SECTION 8. IC 13-11-2-191 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 191. **(a) "Responsible party", for purposes of IC 13-18-10, means any of the following:**

- (1) An applicant referred to in IC 13-18-10-1.5(a).**
- (2) A person referred to in IC 13-18-10-1.5(b).**
- (3) An officer, a corporation director, or a senior management official of any of the following that is an applicant referred to in IC 13-18-10-1.5(a) or a person referred to in IC 13-18-10-1.5(b):**
 - (A) A corporation.**
 - (B) A partnership.**
 - (C) A limited liability company.**
 - (D) A business association.**

(a) (b) "Responsible party", for purposes of IC 13-19-4, means:

- (1) an officer, a corporation director, or a senior management**

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official of a corporation, partnership, limited liability company, or business association that is an applicant; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.

~~(b)~~ (c) "Responsible party", for purposes of IC 13-20-6, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

~~(c)~~ (d) "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

~~(d)~~ (e) "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of; the hazardous materials emergency."

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 12. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) A person may not start construction of a confined feeding operation **or CAFO** without obtaining **both**:

(1) the prior approval of the department; and

(2) any approval required by a county, city, or town in which the:

(A) confined feeding operation; or

(B) CAFO;

is or would be constructed or operated.

(b) **Subject to section 1.5 of this chapter**, obtaining an NPDES permit for a CAFO meets the requirements of subsection ~~(a)~~ **(a)(1)** and 327 IAC 16 to obtain an approval.

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SECTION 13. IC 13-18-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.5. (a) An applicant must include in the application the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f).**

(b) A person that obtains an NPDES permit for a CAFO as provided in section 1(b) of this chapter must include the disclosure statement or statements referred to in subsection (c) and proof of financial assurance referred to in subsection (f) in:

- (1) the application for an individual NPDES permit for the CAFO under 327 IAC 5; or**
- (2) the notice of intent filed under 327 IAC 15 for general NPDES permit coverage for the CAFO.**

(c) A person referred to in subsection (a) or (b) must submit to the department a disclosure statement for each responsible party that includes the following:

- (1) The name and business address of the responsible party.**
- (2) A description of the responsible party's experience in managing the type of facility that will be managed under the permit.**
- (3) A description of all pending administrative, civil, or criminal enforcement actions filed against the responsible party alleging either of the following:**

(A) Acts or omissions that:

- (i) constitute a material violation of a state or federal environmental law or regulation; and**
- (ii) present a substantial endangerment to human health or the environment.**

(B) Knowing, repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

- (4) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions resolved against the responsible party within the five (5) years that immediately precede the date of the application involving either of the following:**

(A) Acts or omissions that:

- (i) constitute a material violation of a state or federal environmental law or regulation; and**
- (ii) present a substantial endangerment to human health or the environment.**

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(B) Knowing, repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

(5) Identification of all state and federal environmental permits previously denied or revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under subsection (b).

(f) A person referred to in subsection (a) or (b) must submit to the department evidence of financial assurance, maintained in accordance with and in amounts set in rules adopted under section 4 of this chapter. The financial assurance must be in the form of:

(1) a bond for performance, executed by a corporate surety licensed to do business in Indiana;

(2) a negotiable certificate of deposit; or

(3) a negotiable letter of credit;

payable to the department and conditional upon faithful performance of the requirements of this chapter and compliance with other environmental laws.

SECTION 14. IC 13-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Application for approval of the construction **or modification** of a confined feeding operation **or a CAFO** must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.

(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires, including the following:

(A) General features of topography.

(B) Soil types.

(C) Drainage course.

(D) Identification of nearest streams, ditches, and lakes.

(E) Location of field tiles.

(F) Location of land application areas.

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(G) Location of manure treatment facilities.

(H) Farmstead plan, including the location of water wells on the site.

(5) **Except as provided in subsection (e)**, a fee of one hundred dollars (\$100). The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(6) The disclosure statement or statements and the proof of financial assurance required under section 1.5 of this chapter.

(b) An applicant who applies for approval to construct a confined feeding operation **or a CAFO** on land that is undeveloped or for which a valid existing approval has not been issued, **or to modify a confined feeding operation or a CAFO**, shall make a reasonable effort to provide notice:

(1) to:

(A) each person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified**; or

(B) if a person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified** does not occupy the land, all occupants of the land; and

(2) to the county executive of the county in which the confined feeding operation **or the CAFO** is to be located **or modified**; not more than ten (10) working days after submitting an application. The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) A person must comply with subsection (d) if:

(1) the person is not required to file an application as provided in section 1(b) of this chapter for construction of a CAFO:

(A) on land that is undeveloped; or

(B) for which:

(i) a valid existing approval has not been issued; or

(ii) an NPDES permit has not been obtained;

or for modification of a CAFO; and

(2) the person files:

(A) an application under 327 IAC 5 for an individual

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NPDES permit for the construction or modification of a CAFO; or

(B) a notice of intent under 327 IAC 15 for general NPDES permit coverage for construction or modification of a CAFO.

(d) A person referred to in subsection (c) shall make a reasonable effort to provide notice:

(1) to:

(A) each person who owns land that adjoins the land on which the CAFO is to be located or modified; or

(B) if a person who owns land that adjoins the land on which the CAFO is to be located or modified does not occupy the land, all occupants of the land; and

(2) to the county executive of the county in which the CAFO is to be located or modified;

not more than ten (10) working days after submitting an application or filing a notice of intent. The notice must be sent by mail, be in writing, include the date on which the application or notice of intent was submitted to or filed with the department, and include a brief description of the subject of the application or notice of intent. The person shall pay the cost of complying with this subsection. The person shall submit an affidavit to the department that certifies that the person has complied with this subsection.

(e) The fee for a modification of a confined feeding operation or CAFO is the fee determined by rule by the department as a percentage of the fee established under subsection (a)(5) for the type of operation determined to account for the magnitude of the modification as compared to the magnitude of the original construction.

(f) Plans and specifications for manure treatment or control facilities for a confined feeding operation or a CAFO must secure the approval of the department. The department shall approve the construction and operation of the manure management system of the confined feeding operation or the CAFO if the commissioner determines that the applicant meets the requirements of:

- (1) this chapter;**
- (2) rules adopted under this chapter;**
- (3) the water pollution control laws;**
- (4) rules adopted under the water pollution control laws; and**
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations or CAFOs.**

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SECTION 15. IC 13-18-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.1. (a) The department:

- (1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and
- (2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

- (1) continue to review the application;
- (2) approve or deny the application as soon as practicable; and
- (3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if **either of the following applies:**

- (1) The department:
 - (A) determines within thirty (30) days after the department receives the application that the application is incomplete; and
 - (B) has mailed a notice of deficiency to the applicant that specifies the parts of the application that:
 - ~~(1)~~ (i) do not contain adequate information for the department to process the application; or
 - ~~(2)~~ (ii) are not consistent with applicable law.

(2) **The department:**

- (A) **determines that the applicant is subject to any pending action as described in section 1.5(c)(3) of this chapter; and**
- (B) **is diligently pursuing the pending action under IC 13-30.**

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation **or the CAFO** that concerns manure handling and application to assure compliance with:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;

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- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations or CAFOs.

(e) Subject to subsection (f), the commissioner may deny an application upon making either of the following findings:

- (1) A responsible party intentionally misrepresented or concealed any material fact in:**

- (A) a disclosure statement; or**
- (B) other information;**

required by section 1.5 of this chapter.

- (2) An enforcement action was resolved against a responsible party as described in section 1.5(c)(4) of this chapter.**

(f) The commissioner may not deny an application under this section based solely on pending actions disclosed under section 1.5(c)(3) of this chapter.

(g) Before making a determination to approve or deny an application, the commissioner shall consider the following factors:

- (1) The nature and details of the acts attributed to the applicant or responsible party.**
- (2) The degree of culpability of the responsible party.**
- (3) The responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in actions referred to in section 1.5(c)(4) of this chapter.**
- (4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.5(c)(4) of this chapter.**
- (5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.5(c)(4) of this chapter.**
- (6) Whether the best interests of the public will be served by denial of the permit.**
- (7) Any demonstration of good citizenship by the person or responsible party.**

(h) Except as provided in subsection (i), in taking action under subsection (e), the commissioner shall make separately stated findings of fact to support the action taken. The findings of fact must:

- (1) include a statement of ultimate fact; and**
- (2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.**

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(i) If the commissioner denies an application under subsection (e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (g) influenced the denial.

~~(e)~~ (j) The department may amend an approval of an application or revoke an approval of an application:

- (1) for failure to comply with:
 - (A) this chapter;
 - (B) rules adopted under this chapter;
 - (C) the water pollution control laws; or
 - (D) rules adopted under the water pollution control laws; and
- (2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 16. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation **or the CAFO**:

- (1) was constructed; and
- (2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction of an approved confined feeding operation **or a CAFO** must:

- (1) begin not later than two (2) years; and
- (2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation **or the CAFO** or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation **or the CAFO** have been completed, whichever is later.

SECTION 17. IC 13-18-10-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations **and CAFOs** that may be administered by:

- (1) the department;
- (2) a state college or university; or
- (3) a contractor.

SECTION 18. IC 13-18-10-4, AS AMENDED BY P.L.2-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) **Subject to subsection**

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(c), the board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations **and CAFOs** and may include uniform standards for:

- (1) construction and manure containment that are appropriate for a specific site; and
- (2) manure application and handling that are consistent with best management practices:
 - (A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and
 - (B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

- (1) consider confined feeding standards that are consistent with standards found in publications from:
 - (A) the United States Department of Agriculture;
 - (B) the Natural Resources Conservation Service of the United States Department of Agriculture;
 - (C) the Midwest Plan Service; and
 - (D) postsecondary educational institution extension bulletins; and
- (2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

(c) The board shall:

- (1) adopt rules under IC 4-22-2 and IC 13-14-9 to set the amount of financial assurance required of a person under section 1.5(f) of this chapter; and**
- (2) set graduated amounts under subdivision (1) based on the greater potential liability associated with larger operations."**

Page 24, between lines 31 and 32, begin a new paragraph and insert:
 "SECTION 42. IC 36-8-12-2, AS AMENDED BY P.L.43-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. As used in this chapter:

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

- (1) a political subdivision;
- (2) an individual or the legal representative of a deceased individual;

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- (3) a firm;
- (4) an association;
- (5) a limited liability company;
- (6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or
- (7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

- (1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and
- (2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars (\$20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in ~~IC 13-11-2-191(d)~~
IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

- (1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

SECTION 43. IC 36-8-12-13, AS AMENDED BY P.L.107-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a

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responsible party (as defined in ~~IC 13-11-2-191(d)~~ **IC 13-11-2-191(e)**) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b));

- (1) that is responded to by the volunteer fire department; and
- (2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

- (1) deposited in the township firefighting fund established in IC 36-8-13-4;
- (2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or
- (3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 44. IC 36-8-12.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in ~~IC 13-11-2-191(d)~~ **IC 13-11-2-191(e)**."

Page 24, after line 40, begin a new paragraph and insert:

"SECTION 47. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies notwithstanding the effective date of:

- (1) IC 13-18-10-1.5, as added by this act; and**
- (2) the amendments under this act to IC 13-11-2-8, IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1, and IC 13-18-10-2.2.**

(b) The definitions in IC 13-11-2 apply throughout this SECTION.

(c) Subject to subsection (d), the Indiana Code sections referred to in subsection (a), as added or amended by this act, apply to the following confined feeding operations and CAFOs in the same manner those sections would have applied if those sections had

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been in effect on the date the application for the confined feeding operation or CAFO was submitted to the department or the notice of intent for general NPDES permit coverage for the CAFO was filed with the department:

(1) A confined feeding operation or CAFO for which a person is required to submit an application to the department for approval under IC 13-18-10-1(a), as amended by this act.

(2) A CAFO for which a person is required to submit an application to the department for approval of an individual NPDES permit for the CAFO under 327 IAC 5.

(3) A CAFO for which a person is required to file a notice of intent under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(d) Subsection (c) applies only if:

(1) the date of submission of a notice of intent referred to in subsection (c) is on or after the effective date of this SECTION; or

(2) an application referred to in subsection (c) was not approved by the department before the effective date of this SECTION.

SECTION 48. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to ESB 200 as printed February 22, 2008.)

DVORAK

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 200 be amended to read as follows:

Page 9, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 13-20-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. (a) Before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under IC 36-7-4 may be granted, the applicant must submit a bond:**

(1) to the department; and

(2) in an amount that is equal to the projected annual gross income of the landfill.

(b) The department shall hold a bond submitted to the

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department under subsection (a) for three (3) years after the date the landfill is closed.

SECTION 17. IC 13-20-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The commissioner may deny an application for an original permit for the construction or operation of a landfill if:

(1) the commissioner finds that:

~~(1)~~ (A) the applicant does not have a positive net worth of at least two hundred fifty thousand dollars (\$250,000); or

~~(2)~~ (B) there is at least one (1) unsatisfied and nonappealable judgment requiring the payment of money by the applicant; or

(2) the applicant fails to submit a bond to the department as required under section 4.5 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 200 as printed February 22, 2008.)

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